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Attorneys for Defendant  
POST-CONFIRMATION TRUST

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

|                                |   |                                |
|--------------------------------|---|--------------------------------|
| WAYNE BERRY, a Hawaii citizen; | ) | CIVIL NO. CV03-00385 SOM-LEK   |
|                                | ) | (Copyright)                    |
| Plaintiff,                     | ) |                                |
|                                | ) | <b>DECLARATION OF BRIAN</b>    |
| vs.                            | ) | <b>CHRISTENSEN</b>             |
|                                | ) |                                |
| HAWAIIAN EXPRESS SERVICE,      | ) | Judge: Hon. Susan O. Mollway   |
| INC., et al.,                  | ) | Trial Date: January 24, 2006   |
|                                | ) | Hearing Date: January 20, 2006 |
| Defendants.                    | ) | Hearing Time: 2:00 p.m.        |

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**DECLARATION OF BRIAN CHRISTENSEN**

I, BRIAN CHRISTENSEN, declare that the foregoing is true and accurate to the best of my knowledge and belief:

1. I am the president of C&S Wholesale Grocers, Inc.'s Hawaii Division in Kapolei, Hawaii ("C&S"). In that position, I am responsible for overseeing all C&S's operations in Hawaii.

2. Prior to assuming my position at C&S, I had been Division President at Fleming Hawaii since March 2003. Prior to that I had been Sales Manager for Fleming Hawaii for the preceding ten years. Through my work as Sales Manager I had become familiar with Fleming's relationship with Meadow Gold Dairy.

3. Several years ago, before April 1, 2003, Fleming and Meadow Gold Dairy entered into an arrangement where Meadow Gold sold milk directly to Foodland under the "Best Yet" label. (Foodland was selling numerous "Best Yet" products and wanted consistency in its private labeling).

4. Fleming consented to this arrangement because Fleming could not beat Meadow Gold's price for milk given that Fleming would have to import milk from the mainland while Meadow Gold's operations are in Honolulu.

5. Meadow Gold printed the packaging themselves based on the labeling originally provided from Fleming back when this arrangement was made.

Meadow Gold would typically produce a lot of packaging at a time.

6. In March 2005, when I heard that Meadow Gold still had the old Fleming packaging and was using it for its "Best Yet" milk products, I contacted Meadow Gold.

7. I spoke with Henry Lee, Sales Manager of Meadow Gold. I instructed him that Foodland's labels should say C&S, not Fleming. Attached hereto as Ex. A is a true and correct copy of my related e-mail correspondence with Mr. Lee in March 2005. The "Best Yet" milk Hawaiian customers would see in 2005 on Foodland's shelves was packaged in Honolulu for C&S by Meadow Gold Dairy. Products sold in 2005 bearing labels with Fleming's information are simply mistakes.

8. Any other "Best Yet" products currently being sold in Foodland stores packaged in materials bearing Fleming information is similarly explainable. I am currently taking additional steps to make sure that C&S's products bear C&S's information instead of Fleming's.

So sworn under penalty of perjury under the laws of the United States of America in Honolulu, Hawaii on January 12, 2006.

  
BRIAN CHRISTENSEN